DELEGATED DECISION REPORT

NMA/2023/0012 **Valid 12/05/2023**	**LAND OFF TENFORD LANE** **TENFORD LANE** **TEAN**	**NON MATERIAL AMENDMENT RELATING TO SMD/2016/0811** **(NON MATERIAL AMENDMENTS)**

MAIN ISSUES

The impact on the ecological value of the site.

DESCRIPTION OF SITE

The site comprises fields on the northern edge of Upper Tean village and on the north side of Tenford Lane. Dwellings lie to the south side of the road. The land to the north, west and east is also open but with farm buildings and a dwelling linked to a former dog kennels lying close to the west boundary. The land slopes upwards to the north. The south boundary alongside the road is marked by a hedgerow and trees. The site is not in the Green Belt.

PROPOSAL

This is a Non Material Amendment planning application which seeks the alteration of a condition which was attached to the outline planning permission for 40 houses (ref: SMD/2016/0811). The condition the applicant is looking to amend is Condition 17, as follows:

Details submitted under first reserved matters shall include a 'Landscape and Habitat Enhancement & Management Plan' prepared in accordance with Ecological Appraisal, including long term design objectives, management responsibilities, maintenance schedules over a 20 year period for the application site as shown on Location Plan drawing ref. (ref 00438_AL(0)04 A), which shall be approved in writing by the Local Planning Authority. The Plan shall include design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) within site.

The following surveys shall be provided:-

- *Badger survey;*
- *Reptile survey;*
- *Survey of ponds within 500m of the development suitable to support populations of great crested newts (a full survey for great crested newt will be required if ponds are suitable);*
- *Detailed bat surveys shall be carried out prior to the removal of any trees identified as having high–medium potential for bats through previous bat surveys. Surveys should be carried out according to the Bat Conservation Trust Survey Guidelines 2nd Edition. Bat Conservation Trust;*

- *Full Details of how water courses located on the site will be protected from possible pollution and contamination during the construction and completed phases of the development;*

The following details shall be provided:-

- *The extent and type of new planting (planting to be of native species wherever appropriate);*
- *Any new habitat created on site;*
- *Provision of 10 nesting sites for swifts, bats and other birds of Conservation Concern (as defined by the Royal Society for the Protection of Birds), such as house sparrow within the detailed design of buildings;*
- *Treatment of site boundaries and / or buffers around water bodies;*
- *Trees and shrubs planted within developed landscaped areas should be of native species of a similar composition to species identified within species rich hedgerows and the adjacent woodland; and,*
- *A Timetable for the implementation of the plan.*

The approved management plan shall be implemented in accordance with the approved details.

The applicant wishes to alter the first line of the condition, replacing the “Details submitted under first Reserved Matters shall include….” with “Details to be submitted prior to the commencement of works shall include..."

The reason for this is because the condition requires a number of surveys to be undertaken including a survey of trees with high/moderate potential for bats, before any removal of such a tree.

However, on determining the subsequent Reserved Matters application (which has now been approved), it transpired, following consultation of Staffs Wildlife Trust, that such surveys need to be undertaken within 48 hours of the removal of the tree.

It is therefore not practical to require the survey to be done and report included with the Reserved Matters application as it is not possible for approval to be given in the short timespan between the survey submission and the required time for the removal of the tree.

The change in the wording would therefore allow the survey to be undertaken and approved under a Discharge of Condition application and not a Reserved Matters application and the tree can be removed at the appropriate time before building works commence and without breach of the planning approvals and planning conditions, hence the submission of this current Non Material Amendment application as required to alter the condition.

The Council must decide if the alteration can be treated as a “Non Material Amendment” to the approved scheme in terms of whether or not the alteration of the condition would lead to any significant additional impact on the surrounding environment including the ecological value of the site. If it is considered to have significant impact, the application would be refused and instead a new full planning application would be required to be submitted to vary the condition.

Earlier this year, a full “Variation or Removal of a Planning Condition” planning application (under Section 73 of the Planning legislation) was submitted to vary the condition accordingly and was recommended for approval. However, this would have led to the Section 106 Agreement attached to the outline permission also needing to be varied to refer to the new planning permission before it was granted and it was considered by the applicant to withdraw the application and instead apply for the variation of condition via the Non Material Amendment process and the Council considers this to be an acceptable process in which to change the condition.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffs Moorlands Local Plan (adopted September 2020)

NE1 – Biodiversity and Geological Resources.

NPPF (Revised July 2021)

Sections 15 (The Natural Environment).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2016/0811: Outline application for 40 dwellings. Approved on 2.8.18.

SMD/2021/0491: Reserved Matters application for 40 dwellings. Approved 17.2.23.

SMD/2023/0046: Full planning application to vary Condition 17 of the outline permission. Withdrawn.

SMD/2023/0240: Full planning application to vary Condition 1 of the Reserved Matters approval. Pending.

CONSULTATIONS

Publicity

Site Notice expiry date: N/A
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments

None.

OFFICER COMMENTS

I consider that the surveys being undertaken before works commence is a more appropriate time rather than at the Reserved Matters stage given the required short timespan between the tree surveys and removal of the trees and Staffordshire Wildlife Trust are clearly supportive of this approach in the interests of wildlife protection. There are no additional impacts on the surrounding environment or the

ecological value of the site in doing this and the alteration of the wording of the condition is very minor.

The carrying out the surveys afterwards is considered to be a better time for them to be undertaken in the interests of wildlife protection i.e. the removal of trees long after the survey is undertaken runs the risks of bats subsequently starting to roost in the trees following the survey.

Staffordshire Wildlife Trust was consulted on the previous full planning application to vary the condition (which was withdrawn) and commented as follows:

No objection. Altering the condition to require submission pre-commencement would allow bat surveys of any trees to be felled to be submitted and approved 48 hours before removal of the tree, in line with best practice, which would not be possible under the current wording of the condition. Currently only Tree 55 (tag 4541) has bat potential of the trees proposed to be felled. It is also common for ecology method statements and details to be secured via pre-commencement condition, where the critical information has already been established for decision making. The other species surveys and ecology information can also be updated where necessary, since the drainage design has changed.

The condition would still require the surveys to be undertaken before the actual building works commence.

CONCLUSION

The alteration of the condition to require surveys to be undertaken at a later stage and before building works is in line with biodiversity best practice and requirements in the interests of protecting wildlife and the ecological value of the site. The amendment will not cause any significant additional harm to the surrounding environment or the ecological value of the site and therefore can be treated as a Non Material Amendment to the outline planning permission and therefore the Non Material Amendment application can be approved and there is therefore no requirement to seek the change via a full planning application.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston
Recommendation Date: 15.6.23

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council